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W e r l , 7th February, 1946.

To War Crimes Department

Legal Division

Lübbecke / Wsetfalen.

On behalf of Johann Braschoss of Essen, sentenced to death for taking part in the murdering of English pilots in Essen on 13th December, 1944, I ask to revise the sentence by the Court-Martial at Essen-Steele.

I, undersigned lawjer, jave been entrusted to work on this affair just a week ago. In spite of the brevity of time and the difficulty of getting well up in the matter because it is not easy to procure the necessary informations, I think I am not allowed to refuse helping the sentenced Braschoss..

In order to clear the deplorable, criminal incidents on the bridge at Essen on December 13th, 1944, forenoon, to which three English pilots fell victims, we must, first of all, take a general survey.

In the evening of 12th December, 1944, a great air bombardment had taken place in the district in question. In the morning of 13th December, the population was still under the impression of this terrible occurrence. About ten o'clock in the forenoon, three downed pilots escorted by a detachment of three soldiers whose leader was a corporal, were to be brought from the barracks to the aerodrome of Essen-Mühlheim. Soon after leaving the barrecks, a number of civilians joined to them which on the bridge grew up to more than 100 persons. This is to be concluded from the argumentation. Braschoss declares that it amounted to 170-200 persons.

Soon the civilians who accompanied the transport took a threatening line against the pilots. The leader of the military escort ought to have realised the danger originating from this for the pilots. In order to avoid excesses he ought to have returned imme-

diately to the barracks to report this to his superior, so that the imminent danger might be removed by reinforcing the escort or in any other way. Unfortunately this has not been done. On the bridge there took place the deplorable excesses by which the three pilots lost their lives. The ascertainment of the perpetrator in such crowds of excited people is not easy. In the first place those ringleaders are responsible who goaded the excited people to the excesses. Of course, those are difficult to find out. But it is not easy, either, to ascertain positively those who executed the crime as it is usually carried out spontaneously so that also he who watches a crowd of excited people from close by cannot positively distinguish details because the whole event passes on within a few moments. For a watcher who is far away - about 70 m - it seems to be impossible to discern positively the single actions of any perpetrator as events in a crowded multitude will pass on within seconds so that, owing to the rapidity of the events and opaqueness of the situation, an outsider can usually not recognize a single perpetrator and his actions. Add to this the excited fancy in such events. We know from experience that in course of time, by telling and talking with other persons in the watcher's mind arises a certain condition of affairs which, he is convinced, is true, but nevertheless departs entirely from the real occurrence. From this point of view we must estimate the depositions in the case of Braschoss.

Braschoss himself states, summarized, as follows:
In the morning of 13th December, 1944, he was clearing off on the loft of his house when his little niece called his attention to the events on the bridge. When he went down, his wife declared him that she had seen a pilot thrown down from the bridge. With his peak-cap on his head, a blue linen jacket, without a stick, he then went to the bridge. In consequence of having been shot through both his knees in the first Great War, he is shaky on his feet. Arriving at

werden könnte.
Ich werde mir gestatten, sofern das Ergebnis der
noch angestellten Ermittlungen ein für Braschoss
günstiges Ergebnis herbeiführen könnten, dieses
noch mitzuteilen.
Meine Vollmacht liegt an.

[Signature]
Rechtsanwalt.

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the spot of the crime he saw the escort led by a corporal with their guns levelling at two pilots who were standing there with their hands up. A cyclist who passed alighted from his bicycle and beat the pilots with a stick; thereupon, 4 or 5 civilians who were standing there threw the smaller pilot over the wall on the same side where the first pilot had fallen down. Thereupon, the taller pilot ran to the other side of the bridge and fled along the wall. The escorting corporal cried: "Stop! I shoot!", whereupon he fired at the fleeing pilot. At the end of the bridge a civilian threw the pilot over the wall. From that spot the corporal then shot at the lying pilot. When he got to the lying pilot, two civilians and the corporal were already there. He told them not to deprive the pilot; he would report that. Thereupon this pilot, like the other two pilots, was thrown into the mill-brook which flows past here.

Braschoss now as before avers that he is innocent. He neither beat any of the pilots nor did he take part in throwing a pilot over the wall. Nor has he deprived the third pilot.

One thing seems to be sure: Braschoss went to the bridge only when the first pilot had already been thrown over the wall. The witnesses who incriminate Braschoss are the two children Löber, 15 resp. 16 years old, Hartmann, Konradshaus, and his daughter. As for the deposition of the two children Löber, it is to be stated as follows: In his interrogation upon oath Heinz Löber asserts that from his house he suddenly saw and watched the pilots, soldiers, and the crowd of people on the bridge and that the pilots were beaten by several civilians, among these Braschoss. This witness has not asserted that Braschoss took part in throwing the pilots down.

In an affidavit this witness declares that when the small pilot was thrown from the bridge, he had just set foot on the bridge. Here the witness contradicts himself with regard to his first deposition.

Also the witness Inge Löber, 16 years old, asserts that from her house she has recognized Braschoss beating the pilots on the bridge.

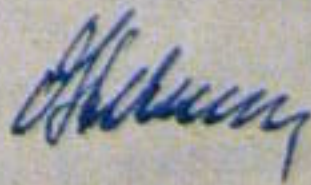
As I said already, these observations, made from 70 meters' distance from the bridge, are to be estimated with caution, particularly considering that the unusual occurrences have specially stimulated the children's fancy and favoured the formation of a state of affairs in their minds which entirely differs from reality. Inge Löber's deposition that she has seen Braschoss helping to deprive the pilots is to be derived from the same delusion. The witness Konradshaus asserts, that from the roof of his house he has seen that Braschoss took part in illtreating the pilots. Konradshaus's home, a weekend home of about 5 m height, lies at about 80 - 100 meter's distance from the bridge. It lies about 10 - 20 meters deeper than the bridge. On either side the bridge has a wall which is about 1 meter high so that it is very difficult to look over the bridge, particularly from a lower point, like the house of Konradshaus. In these circumstances it seems to be very delicate to discern positively one of those who took part in the excesses on the bridge.

The witness Konradshaus further asserts that Braschoss took part in undressing the third pilot below the bridge and invited him to hold the pilot's body in order to throw him into the river. Here the witness Konradshaus must have been mistaken as for the person of Braschoss, for Braschoss himself affirms that he does not know the witness Konradshaus and has seen him for the first time on 15th July, 1945. At that time, Braschoss lived in the district as a refugee only for 1 1/2 years past. Braschoss states that the witness Konradshaus when interrogated during the trial, used a note-book in which notes of statements of other persons were taken down which he stated too till the chairman told him, that this was not allowed. In the witness-room Konradshaus declared to Mrs. Klara Giese of Essen that he had not been on the bridge, but watched the occurrences from the roof of his house.

Konradshaus is said to be a lazy fellow who is not in his right senses. As for the truth of these assertions, ascertainments are being made. In these circumstances, the reliability of the witness

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Konradshaus seems to be doubtful.

The deposition of the daughter of Konradshaus, named Annemarie, 16 years old, is to be estimated, in my opinion, like that of the children Löber. The witness Hartmann gives exact statements about Braschoss's behaviour on the bridge from close by. He asserts that he has seen Braschoss beating the pilots.

Hartmann has given this deposition by word of mouth on 15th July, 1945. May we fully trust in it?

It is strange that Hartmann, though summoned as a witness to the trial and in spite of the attempt of the Court to fetch him, has not appeared in Court so that he could not be interrogated as a witness in the trial. His mother and wife could not give any information about his whereabouts to the soldiers sent by the Court. So we must suppose that on purpose he withdrew from the judicial interrogation, for we can hardly suppose that he forgot so important a matter. Only on Friday, one day before the publication of the judgment, he appeared again. This behaviour reflects very oddly upon his reliability.

His assertion that Braschoss fled with a ^V to Thuringia, is untrue. Braschoss worked from 1st January 45 to 2nd May 45 at his workplace at the ore-office of Krupp; from 3rd May to 10th May he was arrested for the first time; from 10th May to 12th May he was at home; from 12th May to 22nd May, 1945, in the Town Hospital of Essen; from 22nd May to 6th July, 1945, he was attended by Dr. med. Brachvogel in the hospital of Kettwig; from 7th July to 12th July, 1945, at home; and from 12th July, 1945, at Siegburg-Heisterschoss, where he was arrested on 13th July, 1945; from then up to the trial at Recklinhausen. Consequently, Braschoss cannot have stayed in Thuringia.

Considering the objections of Braschoss against the depositions of the witness, we must admit that there are doubts as for their reliability, in part at least objectively. Maybe, by the valuation of these doubts the reliability of the witness cannot fully be

cleared. But considering the aforesaid circumstances, the deed of Braschoss will perhaps be judged more indulgently so that the ^{death} penalty might be transformed into imprisonment. If the result of the ascertainments which are still being made should be favourable for Braschoss, I shall beg to inform you.

Enclosure: my power of attorney.

H. H. H.
Lawyer.

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